

REMARKS

This Amendment is filed in response to the Final Office Action of January 26, 2005.

The Applicants thank the Examiner for her careful review of the present application.

Claims 1, 4-8, and 10-13 are pending after entry of the present Amendment.

Rejections under 35 U.S.C. § 102(b):

Claims 1, 4-8, and 10-13 are rejected under 35 U.S.C. § 102(b), as being anticipated by Ma et al. (U.S. Patent 5,920,725), hereinafter "Ma". For the reasons put forth below, Applicants respectfully assert that Ma fails to disclose each and every feature recited in the amended independent claims 1 and 8.

Ma discloses a run-time object-updating system that updates a distributed-object client-server application with client objects and server objects. *See col. 4, lines 36-38*. The updating system includes a central meta server on a server machine that stores object descriptors for programming objects in a distributed client-server application. *See col. 6, lines 1-19 and Figure 3*. The meta server is a program-object cataloging program running on a server machine. *See col. 6, lines 34-35, and Figure 5*. The object class definition in the meta server serves as the blueprint for instantiating an object. *See col. 6, lines 48-51*. As shown in Figure 5, the meta server is located in server machine (90). Figure 6 shows a hierarchy diagram of a distributed application that is update by the meta server. The meta server operates on top of the server-side application. *See col. 9, lines 46-49*. Ma provides numerous references that the meta server operates on the server-side of a distributed two-tiered client-server application. *See col. 15, lines 54-55 and 63-65*.

In contrast, as recited in independent claims 1 and 8, embodiments of the present invention provide online upgrade of an application in the middle-tier. The middle-tier is a

distinct and separate layer that is not in the server-side or the client-side of a multi-tiered network. The middle-tier is a layer that is typically located between the server and the client in the network architecture. The application, as recited in claims 1 and 8, includes an original service module and an original control module in the middle-tier. The original control module includes application-specific policies for upgrading the application in the middle-tier.

Since Ma teaches updating objects for a two tiered client-server application, Ma teaches away from updating objects in a multi-tiered application in the middle-tier. As Ma teaches updating objects in the client and server applications, then one of ordinary skill following the teachings Ma would apply the teachings to update objects in the server-client application. Updating objects in the server-client application is not the same as updating objects of an application in the middle-tier. As previously discussed, the middle-tier is a distinct and separate layer in a multi-tiered network that is not in the server-side or the client-side of the network architecture. Thus, following the teachings of Ma, one of ordinary skill would not be updating objects of an application in the middle-tier.

Although Ma mentioned that the run-time object-updating system could be applied to multi-tiered applications rather than just the two-tiered client-server applications, Ma has not provided any details for updating objects of a multi-tiered application in the middle-tier. *See col. 15, lines 63-65*. If Ma is considered to teach updating objects in the middle-tier, then it must disclose specific details on how to implement such a multi-tiered system and not just a two-tiered system. Moreover, a mere suggestion or mentioning that a run-time object-updating two-tiered system could be applied to multi-tiered applications is not an enabling disclosure with sufficient details to anticipate the current claimed embodiments under 35 U.S.C. § 102(b).

Since Ma fails to disclose sufficient details for updating objects of an application in the middle-tier, Ma has not disclosed each and every claimed feature of independent claims 1


and 8. Accordingly, Ma fails to anticipate independent claims 1 and 8 under 35 U.S.C. § 102(b). Thus, claims 1 and 8 are patentable.

Similarly, dependent claims 4-7, and 10-13, which draw their respective dependencies from either independent claim 1 or 8, are also not anticipated by Ma for substantially the same reason as discussed above, and for the additional limitations that each dependent claim respectively recites.

Accordingly, after consideration of the present Amendment, the application is now in a condition for allowance. A Notice of Allowance is therefore respectfully requested.

If the Examiner has any questions concerning the present Amendment, the Examiner is kindly requested to contact the undersigned at (408) 774-6911. If any other fees are due in connection with filing this Amendment, the Commissioner is also authorized to charge Deposit Account No. 50-0805 (Order No. SUNMP003). A duplicate copy of the transmittal is enclosed for this purpose.

Respectfully submitted,
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